



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

A-580-886

Ferrovanadium from the Republic of Korea: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) preliminarily determines that imports of ferrovanadium from the Republic of Korea (“Korea”) are being, or are likely to be, sold in the United States at less than fair value (“LTFV”). The period of investigation (“POI”) is January 1, 2015, through December 31, 2015. The estimated weighted-average dumping margins of sales at LTFV are shown in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective (INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER).

FOR FURTHER INFORMATION CONTACT: Karine Gziryan at (202) 482-4081 or Eli Lovely at (202) 482-1593; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on April 18, 2016.¹ For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum that is dated concurrently with this determination and is hereby adopted by this notice.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is ferrovanadium from Korea. For a full description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix I of this notice.

¹ See *Ferrovanadium from the Republic of Korea: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 24059 (April 18, 2016) ("Initiation Notice").

² See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair Value Investigation of Ferrovanadium from the Republic of Korea" ("Preliminary Decision Memorandum"), dated concurrently with this notice.

Scope Comments

The *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, “scope”).³ No interested parties commented on the scope of the investigation, as it appeared in the *Initiation Notice*.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Tariff Act of 1930 (“the Act”). For, Korvan, export prices have been calculated in accordance with section 772(a) of the Act. Normal value (“NV”) has been calculated in accordance with section 773 of the Act. The other two mandatory respondents in this investigation⁴, Woojin and Fortune, failed to respond to the Department’s questionnaire or otherwise participate in the investigation. Thus, we preliminarily determine to apply facts otherwise available with an adverse inference to these respondents pursuant to sections 776(a) and (b) of the Act. For a full description of the methodology underlying our preliminary determination, see the Preliminary Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* dumping margins, and any dumping margins determined entirely under section 776 of the Act. Korvan is the only participating mandatory respondent in this investigation. The Department calculated a company-specific dumping margin for Korvan which is not zero, *de minimis* or based entirely on

³ See *Initiation Notice*, 81 FR 24060.

⁴ Korvan Ind. Co., Ltd. (“Korvan”), Woojin Ind. Co., Ltd. (“Woojin”), and Fortune Metallurgical Group Co., Ltd. (“Fortune”) are the mandatory respondents in this investigation.

facts available. Therefore, for purposes of determining the “all-others” rate and pursuant to section 735(c)(5)(A) of the Act, we are assigning the weighted-average dumping margin calculated for Korvan to all other producers and exporters of the merchandise under consideration.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter/Producer	Weighted-Average Margin
Fortune Metallurgical Group Co., Ltd.	54.69%
Korvan Ind. Co., Ltd.	4.48%
Woojin Ind. Co., Ltd.	54.69%
All-Others	4.48%

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of ferrovanadium from the Republic of Korea, as described in the scope of the investigation, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. These suspension of liquidation instructions will remain in effect until further notice.

Pursuant to section 733(d) of the Act and 19 CFR 351.205(d), we will instruct CBP to require cash deposits equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated in the table above, as follows: (1) the cash deposit for the mandatory respondents listed above will be the respondent-specific weighted-average dumping margin listed for the

respondent in the table above; (2) if the exporter is not a mandatory respondent identified above, but the producer is, the cash deposit rate will be the weighted-average dumping margin established for the producer of the subject merchandise; and (3) the rate for all other producers or exporters will be the all others rate listed in the table above.⁵

Disclosure and Public Comment

We intend to disclose the calculations that we performed in this investigation to interested parties in this proceeding within five days after the date of public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline for case briefs.⁶ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. All documents must be filed electronically by the due date using ACCESS.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request for a hearing to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. An electronically-filed request for a hearing must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.⁷ Hearing requests should contain the party's name,

⁵ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

⁶ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

⁷ See 19 CFR 351.310(c).

address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Verification

As provided in section 782(i) of the Act, we intend to verify the information that will be relied upon in making our final determination.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by petitioners. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 23, 2016, pursuant to 19 CFR 351.210(e) and (e)(2), Korvan requested that the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.⁸ Therefore, in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject

⁸ See Letter to the Secretary of Commerce from Korvan “Ferrovanadium from the Republic of Korea: Korvan’s Request to Extend the Final Determination,” dated September 23, 2016.

merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.⁹

International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: October 25, 2016

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

⁹ See also 19 CFR 351.210(e).

Appendix I

Scope of the Investigation

The product covered by this investigation is all ferrovanadium regardless of grade (*i.e.*, percentage of contained vanadium), chemistry, form, shape, or size. Ferrovanadium is an alloy of iron and vanadium. Ferrovanadium is classified under Harmonized Tariff Schedule of the United States (HTSUS) item number 7202.92.0000. Although this HTSUS item number is provided for convenience and Customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum:

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- III. Period of Investigation
- IV. Postponement of Preliminary Determination
- V. Postponement of Final Determination and Extension of Provisional Measures
- VI. Scope of the Investigation
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 - A. Application of Facts Available
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 - D. Fair Value Comparisons
 - 1. Determination of the Comparison Method
 - 2. Results of the Differential Pricing Analysis
 - E. Date of Sale
 - F. U.S. Price
 - G. Normal Value
 - 1. Comparison-Market Viability
 - 2. Level of Trade
 - 3. Calculation of Normal Value Based on Comparison Market Prices
 - 4. Calculation of NV Based on CV
 - H. Cost of Production
 - 1. Cost Averaging Methodology
 - a. Significance of Cost Changes
 - b. Linkage Between Sales and Cost Sales Information
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 - 3. Test of Comparison Market Sales Prices
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- X. Currency Conversion
- XI. Verification
- XII. Recommendation